

§Appl. No. 09/965,807
Amdt. dated December 7, 2004
Supplemental Reply to Office Action of, July 2, 2004

REMARKS

These remarks are supplemental to those filed December 2, 2004.

Claims 89-91 indicate that the claimed polypeptides are produced by expressing a DNA coding for said aspartoacylase in a host cell. Support for this claim can be found in the specification, e.g., Page 15, line 14-Page 16, line 7.

According to M.P.E.P §2113, "The structure implied by the process steps should be considered when assessing the patentability of product-by-process claims over the prior art, especially where the product can only be defined by the process steps by which the product is made, or where the manufacturing process steps would be expected to impart distinctive structural characteristics to the final product. See, e.g., *In re Garner*, 412 F.2d 276, 279, 162 USPQ 221, 223 (CCPA 1979)." The recited processes distinguish over the cited prior art, e.g., because they would be free of other human proteins.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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